

Department of Energy

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§ 1022.18 Timing of floodplain/wetlands actions.

(a) Prior to implementing a proposed floodplain action, DOE shall endeavor to allow at least 15 days of public review after publication of the statement of findings.

(b) With respect to wetlands actions (not located in a floodplain), DOE shall take no action prior to 15 days after publication of the Public Notice in the FEDERAL REGISTER.

(c) Where emergency circumstances, statutory deadlines, of overriding considerations of program or project expense or effectiveness exist, the minimum time periods may be waived.

§ 1022.19 Selection of a lead agency and consultation among participating agencies.

When DOE and one or more other Federal agencies are directly involved in a floodplain/wetlands action, DOE shall consult with such other agencies to determine if a floodplain/wetlands assessment is required, to identify the appropriate lead or joint agency responsibilities, to identify the applicable regulations, and to establish procedures for interagency coordination during the environmental review process.

§ 1022.20 Public inquiries.

Inquiries regarding DOE's floodplain/wetlands activities may be directed to the Assistant Secretary for Environment, Department of Energy, Washington, DC 20545.

§ 1022.21 Updating regulations.

DOE shall periodically review these regulations, evaluate their effectiveness, and make appropriate revisions.

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AUTHORITY: 42 U.S.C. 2201, 5814, 7151, 7251; 5 U.S.C. 301; 41 U.S.C. 321, 322, 601–613; 5 U.S.C. 571–583; 9 U.S.C. 1–16, unless otherwise noted.

OVERVIEW: ORGANIZATION, FUNCTIONS AND AUTHORITIES

SOURCE: 62 FR 24806, May 7, 1997, unless otherwise noted.

§ 1023.1 Introductory material on the Board and its functions.

(a) The Energy Board of Contract Appeals (“EBCA” or “Board”) functions as a separate quasi-judicial entity within the Department of Energy (DOE). The Secretary has delegated to

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the Board's Chair the appropriate authorities necessary for the Board to maintain its separate operations and decisional independence.

(b) The Board's primary function is to hear and decide appeals from final decisions of DOE contracting officers on claims pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. 601 *et seq.* The Board's Rules of Practice for these appeals are set forth in subpart A of this part. Rules relating to recovery of attorney fees and other expenses under the Equal Access to Justice Act are set forth in subpart C of this part.

(c) In addition to its functions under the CDA, the Secretary in Delegation Order 0204-162 has authorized the Board to:

(1) Adjudicate appeals from agency contracting officers' decisions not taken pursuant to the CDA (non-CDA disputes) under the Rules of Practice set forth in subpart A of this part;

(2) Perform other quasi-judicial functions that are consistent with the Board members' duties under the CDA as directed by the Secretary;

(3) Serve as the Energy Financial Assistance Appeals Board to hear and decide certain appeals by the Department's financial assistance recipients as provided in 10 CFR 600.22, under Rules of Procedure set forth in 10 CFR part 1024;

(4) Serve as the Energy Invention Licensing Appeals Board to hear and decide appeals from license terminations, denials of license applications and petitions by third-parties for license terminations, as provided in 10 CFR part 781, under Rules of Practice set forth in subpart A of this part, modified by the Board as determined to be necessary and appropriate with advance notice to the parties; and

(5) Serve as the Energy Patent Compensation Board to hear and decide, as provided in 10 CFR part 780, certain applications and petitions filed under authority provided by the Atomic Energy Act of 1954, ch. 1073, 68 Stat. 919 (1954), and the Invention Secrecy Act, 35 U.S.C. 181-188, including:

(i) Whether a patent is affected with the public interest;

(ii) Whether a license to a patent affected by the public interest should be

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granted and equitable terms therefor; and

(iii) Whether there should be allotment of royalties, award, or compensation to a party contributing to the making of certain categories of inventions or discoveries, or an owner of a patent within certain categories, under Rules of Practice set forth in subpart A of this part, modified by the Board as determined to be necessary and appropriate, with advance notice to the parties.

(d) The Board provides alternative disputes resolution neutral services and facilities, as agreed between the parties and the Board, for:

(1) Disputes related to the Department's prime contracts and to financial assistance awards made by the Department.

(2) Disputes related to contracts between the Department's cost-reimbursement contractors, including Management and Operating Contractors (M&Os) and Environmental Remediation Contractors (ERMCs), and their subcontractors. Additionally, with the consent of both the responsible prime DOE cost-reimbursement contractor and the cognizant DOE Contracting Officer, the Board may provide neutral services and facilities for disputes under second tier subcontracts where the costs of litigating the dispute might be ultimately charged to the DOE as allowable costs through the prime contract.

(3) Other matters involving DOE procurement and financial assistance, as appropriate.

§ 1023.2 Organization and location of the Board.

(a) *Location of the Board.* (1) The Board's offices are located at, and hand and commercial parcel deliveries should be made to: Board of Contract Appeals, U.S. Department of Energy, 950 L'Enfant Plaza, SW., Suite 810, Washington, DC 20024.

(2) The Board's mailing address is as follows. The entire nine digit ZIP code should be used to avoid delay: Board of Contract Appeals, U.S. Department of Energy, HG-50, Building 950, Washington, DC 20585-0116.